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SUBJECT: ELECTION CODE AMENDED FOR MAY 21 PARLIAMENTARY ELECTIONS

REF: A) TBILISI 444

¶1. (U) Summary: On March 21, the Parliament of Georgia amended Georgia's election code (reftel) by a vote of 134-2. All but one opposition member of Parliament boycotted the proceeding. The deadline for registering political parties is March 26. This cable summarizes the main points of the amendments and their likely influence on the election. End summary.

#### The Electoral System

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¶2. (U) The 150-member legislative body is now comprised of 75 single-mandate "majoritarian" districts and 75 nationwide party-list, proportionally-elected seats. This constitutes the opposition's foremost complaint against the government. They are demanding that the 75 single-mandate seats instead be chosen by a "regional proportional" system. Such a system would allocate those seats in each region (containing several districts with one seat each) proportionally by party. The Parliament has decided that each district's seat will be elected by a majority of the voters in that district. Candidates for majoritarian seats must be presented by parties or election blocs registered at the CEC. Signatures of supporters (previously 1,000) are no longer required.

#### Boundary Problems

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¶3. (U) Unfortunately, Georgia's electoral districts (called "rayons") are divided quite unevenly (with districts representing between 6,000 and 160,000 voters). If all 75 districts receive one MP, it raises an issue of fairness and "one man, one vote" as unequal districts devalue the vote of one citizen in relation to another. Opposition groups are especially upset because Tbilisi is under-represented per capita compared to the rest of the country. Tbilisi has only 10 of 75 seats, despite being home to one-third of the country's population. It is also where the opposition is strongest. Many observers comment that the 75-single mandate constituency structure as passed by Parliament favors the ruling party.

#### The 30% Threshold

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¶4. (U) For the 75 single-mandate seats, the candidate who wins the most votes is declared the victor if he has more than 30 percent. No runoff election is required. This means a candidate can win with a plurality, rather than a majority of votes. When there are two or three candidates, this system usually does not constitute a significant concern. However, with multiple candidates in a single district, this could easily lead to someone winning the seat with only 30.1 percent of the vote (meaning nearly 70 percent of the constituency did not support that candidate). The opposition would prefer a 50 percent threshold, like the Presidential elections, and a run-off of the top two candidates if no one received more than

half the vote.

#### Abolishment of Additional Voters List

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15. (U) Same day voter registration has been abolished. Those voters who registered at the polls in January have been added to the general voters list. Same day registration and specially counting procedures for such votes caused confusion in January and will be avoided in the May parliamentary elections.

#### Structure of District Election Commissions

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16. (U) District Election Commissions (DECs) will now mimic the composition of Precinct Election Commissions (PEC) and the CEC, with 13 total members (7 appointed by the government and 6 appointed by opposition parties). This is a significant improvement over the previous structure. Many of the decisions made by the CEC regarding complaints processes during the Presidential elections were uniformly 7-6 votes. Thus, the ruling National Movement party will continue to dominate the PECs, DECs, and the CEC.

17. (U) The DECs will also have increased powers, including the right to tabulate votes cast in the precincts and the right to cancel election results from polling stations. DECs were denied these rights during the January 5 presidential election. Even without this authority, the DECs were largely blamed during the presidential election for perpetrating fraud and manipulating results (i.e. changing the protocols). On the other hand, the more balanced, multi-party composition of the DEC is a safeguard that may help prevent such manipulation from occurring.

#### Protocols

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18. (SBU) To date, Post has not been able to confirm whether or not voting data will be removed from the protocols, where election results from the PECs is reported. Such a move would be undesirable as it would reduce the transparency of the election. On March 19 and 20, Poloffs stressed to ruling party MPs and the CEC that removing key information such as the number of valid ballots and the total number of voters -- which has previously been suggested by the CEC "to avoid simple mistakes" -- would be a step backward on the part of the government. We will continue to advocate that the protocols require all important information to be included and clear.

#### Disputes and Appeals

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19. (U) Decisions made by PECs and DECs can be appealed to the next higher level election commission, and CEC decisions can be appealed to the courts in two steps. First, to the District or City Court, and then to the Appeals Court. The decision of the Appeals Court is final. DECs and PECs cannot finalize their results before the disputes have been resolved.

110. (SBU) If appeals sent to the election commissions are faulty (i.e. lack certain legal requirements or technical information), the commission is obliged to indicate those faults to the claimants and indicate a timeframe during which those faults should be corrected. Only if these faults are not corrected within the given timeframe does the commission have the right to decline consideration of the appeal. This revision is universally seen as a positive step if properly implemented.

#### Miscellaneous Clarification

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111. (U) The amendments clarify certain terms in the election code, including: qualified election subject (a political entity which qualifies for funding from the state budget), pre-election campaign, pre-election agitation, and majoritarian district. Furthermore, the

amendments clarify the rules of administering election funds and the terms and use of administrative resources. Misuse of administrative resources was a key charge against the National Movement in the presidential elections.

Comment

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¶12. (SBU) On balance, the amendments to the election code are an improvement compared to those in effect on January 5. However, the changes must be implemented in good faith for a positive outcome. Nearly all outside observers agree that the GOG designed the single-mandate districts to the advantage of the ruling National Movement.

PERRY